

### **REMARKS**

Applicant respectfully requests reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional fee is required for this Amendment as the number of independent claims has not changed, and the total number of claims has not changed.

#### **Amendment to the Claims**

Applicant has amended independent Claims 3, 9, 15, and 18 to recite that the flap sheet is attached “directly” to the body-side liner. Support for this Amendment can be found at page 10, lines 5-11, of Applicant’s Specification and in FIGS. 1-3.

Applicant has also amended Claim 9 to delete the limitation objected to by the Examiner.

Applicant has also amended Claim 15 to further clarify the claimed invention. Support for this Amendment can be found in FIGS. 1-3.

No new matter has been added to the claims by this Amendment.

### **Claim Objections**

The Examiner objected to Claims 9-14 for the reason stated on Page 2 of the Office Action. Applicant has deleted the limitation of Claim 9 identified by the Examiner. Applicant respectfully asserts the above Amendment overcomes the objections to Claims 9-14.

### **Claim Rejections - 35 U.S.C. §102**

Claims 2-7, 9-14, and 18 have been rejected under 35 U.S.C. §102(e) as being anticipated by Reynolds et al., U.S. Patent Application Publication 2003/0050616.

Applicant's invention of independent Claims 3, 9, and 18 includes a flap sheet attached directly to a body-side liner of an absorbent article. The flap sheet includes pleats and is expandable to form a pocket for collection of fecal matter. Reynolds et al. discloses a folded gasket element 74 attached to a stretchable band 60 (Paragraphs 0037 and 0038). When the stretchable band 60 is stretched, the gasket element forms a containment volume for holding body exudates (Paragraphs 1142 and 1143). The stretchable band 60 is joined to a topsheet of a diaper chassis 31 (Paragraphs 0032 and 0036).

Reynolds et al. discloses a folded gasket element attached indirectly to a topsheet liner of a diaper through a stretchable band. Reynolds et al. does not disclose Applicant's claimed pleated flap sheet that is attached directly to an absorbent article body-side liner. Therefore, Reynolds et al. does not disclose each and every limitation of Applicant's claimed invention, and does not anticipate Claims 2-7, 9-14, and 18.

### **Claim Rejections - 35 U.S.C. §102**

Claims 2-3, 6-7, 9-10, 13-14, and 18 have been rejected under 35 U.S.C. §102(b) as being anticipated by Schaar, U.S. Patent 3,951,150.

Schaar discloses longitudinal folds defining a "box-pleat configuration" for a diaper (Column 3, lines 61-64). The box-pleat diaper includes a central panel C, a pair of first panels B and D extending from and overlying the central panel C, and a pair of outermost panels A and E extending from and overlying the first panels B and D (Column 3, line 64 - Column 4, line 1). The central panel C is adhered to the underlying portion of the diaper (*See* figures and Column 5, lines 9-24).

The Examiner alleges that Schaar discloses a pocket defined by panels A, B, C, D, and E and between "sheet" 48 and liner 32. Applicant respectfully disagrees with the Examiner's allegation that Scharr discloses a fecal matter collection

pocket that is formed by a pleated flap sheet. As disclosed in Scharr, the end section or flap 48 is folded about lateral fold line 50 (Column 4, lines 8-14). A securing means, such as an adhesive, connects the flap 48 to the top of the diaper (Column 4, lines 22-35). The adhesive 56 “intermediate the spaced pleat means ... retains the front surface 34 of the central panel C in the end section 48 against the underlying front surface 34 of the central panel C of the diaper” (Column 4, lines 36-44). In addition, “adhesive lines 58 retain the front surface 34 of the outer-most panels A and E in the end section 48 against the front surface 34 of the underlying portions of the outermost panels in the diaper” (Column 4, lines 44-48). In other words, the end section 48 that the Examiner alleges forms a pocket is adhered down to the inner surface of the diaper.

Applicant’s claimed invention includes a pleated flap sheet that is expandable in a direction away from the body-side surface of the absorbent article. As the folded end section of Schaar is adhesively connected to the inner surface of the diaper, and thus is not expandable in a direction away from the inner surface to form a pocket, Schaar does not disclose or suggest each and every limitation of Applicant’s claimed invention, and does not anticipate Claims 2-3, 6-7, 9-10, 13-14, and 18.

**Claim Rejections - 35 U.S.C. §103**

Claims 15-17 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Foreman, U.S. Patent 4,738,677, in view of Igaue et al., U.S. Patent 5,114,420.

As an initial matter, the Examiner previously rejected Claims 15-17 over Foreman in view of Igaue et al. in the Office Action mailed 10 October 2003 (Paper No. 12). Applicant believed this rejection was overcome by the Amendment mailed on 31 January 2003, particularly as the rejection was not maintained in the following Office Action mailed 13 June 2003 (Paper No. 16). In addition, the last two lines on page 4 of the present Office Action and continuing onto Page 5, contain references to prior art not believed to be part of the present rejection, but part of a rejection made in the Office Action mailed 13 June 2003 (Paper No. 16), which Applicant overcame.

Applicant has amended independent Claim 15 to further clarify how the pocket is formed by the pleated flap sheet and asserts Claims 15-17 are patentable over the combination of Foreman and Igaue et al. Amended Claim 15 recites a pleated flap sheet proximate a back region wherein the longitudinal pleats define peripheral sides of a pocket between the flap sheet and a body-side liner.

Foreman does not disclose a pleated flap sheet wherein the pleats form the peripheral sides of a pocket between the flap sheet and a body-side liner of an

absorbent article. Foreman discloses a flap portion 274 that can include an elastic member 77 that contracts to gather the flap portion 274, thereby creating a plurality of small corrugations along the entire flap portion 274 (Column 5, lines 33-68). However, these corrugations are not pleats that define the peripheral sides of a pocket between the flap sheet and a body-side liner, as in Applicant's claimed invention.

The Examiner acknowledges that Foreman does not teach nor suggest removing portions of a rectangularly configured multilayer material as required by the method of Applicant's claimed invention. Rather, the Examiner relies upon Igaue et al. as teaching this aspect of Applicant's claimed invention. However, because neither Foreman nor Igaue et al. teaches or suggests an absorbent article comprising a pleated flap sheet with longitudinal pleats that define the peripheral sides of a pocket between the flap sheet and a body-side liner, as claimed by Applicant, Applicant respectfully asserts that application of the teachings of Igaue et al. to the teachings of Foreman would not result in an absorbent article as claimed by Applicant. Accordingly, it follows that the method of the invention claimed by Applicant that forms the claimed absorbent article is also neither taught nor suggested by the combination of Foreman and Igaue et al. Thus, Applicant respectfully urges that Foreman and Igaue et al., alone or in combination, do not render Applicant's claimed invention obvious in the manner required by 35 U.S.C. 103(a).

### **Claim Rejections - 35 U.S.C. §103**

Claims 4, 5, 11, and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schaar, U.S. Patent 3,951,150, in view of Foreman, U.S. Patent 4,738,677.

Claims 4 and 5 depend from Claim 3, and Claims 11 and 12 depend from Claim 9, and are patentable for at least the same reasons as Claims 3 and 9, respectively, discussed above. The combination of Schaar and Foreman does not disclose or suggest a pleated flap sheet that is expandable in a direction away from the body-side surface of the absorbent article to form a pocket defined by the pleats and between the flap sheet and the body-side surface, as in Applicant's claimed invention.

### **Conclusion**

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed in this response, Applicant's undersigned attorney requests a telephone interview with the Examiner.

Serial No.: 09/745,006

Docket No.: KCC-14,083

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Swanson', with a long horizontal flourish extending to the right.

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